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OFFICE OF PETITIONS

In re Application of :
Takashi Suzuki :
Application No. 10/743,824 : ON PETITION
Filed: December 24, 2003 :
Attorney Docket No. 25-257 :

This is a decision on the "PETITION TO CORRECT FILING DATE",
filed May 6, 2004, which is being treated as a petition under 37
CFR 1.10 to accord the above application a filing date of
December 29, 2003.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be
submitted within TWO (2) MONTHS from the mail date of this
decision. The reconsideration request should include a cover
letter entitled "Renewed Petition Under 37 CFR 1.10." This is
not a final agency decision within the meaning of 5 USC 704.

Petitioner argues that the above-identified application was
deposited with the USPS on December 26, 2003, not
December 24, 2003. However, as December 26, 2003 was a federal
holiday, petitioner states that the application should be
accorded a filing date of the next business day, or
December 29, 2003.

37 CFR 1.10(c) states that any person filing correspondence under 37 CFR 1.10, who can show that there is a discrepancy between the filing date accorded by the Office and the date of deposit as shown by the "date-in" on the Express Mail mailing label, may petition the Office to accord the correspondence a filing date as of the "date-in" on the Express Mail mailing label, provided:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fees(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Here, Petitioner has not included a true copy of the Express Mail label. In addition, it does not appear that the number of the Express Mail mailing label was placed on the application papers.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

By FAX: (703) 872-9306
 Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned at (703) 305-0272.



Cliff Congo
Petitions Attorney
Office of Petitions